

111TH CONGRESS  
1ST SESSION

# H. R. 2268

To amend the Internal Revenue Code of 1986 to regulate and tax Internet gambling.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2009

Mr. McDERMOTT (for himself and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to regulate and tax Internet gambling.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Internet Gambling Regulation and Tax Enforcement Act  
6       of 2009”.

7       (b) AMENDMENT OF 1986 CODE.—Except as other-  
8       wise expressly provided, whenever in this Act an amend-  
9       ment is expressed in terms of an amendment of a section  
10      or other provision, the reference shall be considered to be

1 made to a section or other provision of the Internal Rev-  
 2 enue Code of 1986.

3 **SEC. 2. TAX ON INTERNET GAMBLING; LICENSEE INFORMA-**  
 4 **TION REPORTING.**

5 (a) IN GENERAL.—Chapter 36 (relating to certain  
 6 other excise taxes) is amended by adding at the end the  
 7 following new subchapter:

8 **“Subchapter E—Internet Gambling**

“Sec. 4491. Imposition of Internet gambling license fee.

“Sec. 4492. Record requirements.

9 **“SEC. 4491. IMPOSITION OF INTERNET GAMBLING LICENSE**  
 10 **FEE.**

11 “(a) FEDERAL FEE.—Each licensee within the mean-  
 12 ing of section 5382 of title 31, United States Code, shall  
 13 be required to pay an Internet gambling license fee by the  
 14 end of each calendar month in an amount equal to two  
 15 percent of all funds deposited by customers during the  
 16 preceding month into an account maintained by that li-  
 17 censee or any agent of that licensee that can be used for  
 18 the purpose of placing a bet or wager as defined in section  
 19 5362(1) of title 31, United States Code.

20 “(b) DEPOSITS.—Deposits made by or on behalf of  
 21 a licensee of Internet gambling winnings or returns of  
 22 funds by or on behalf of a licensee to the account of a  
 23 customer shall not be treated as a deposit for purposes  
 24 of this section.

1       “(c) PERSONS LIABLE FOR FEE.—The Internet gam-  
2 bling license fee shall be the direct and exclusive obligation  
3 of the Internet gambling operator and may not be de-  
4 ducted from the amounts available as deposits to the per-  
5 son placing a bet. Notwithstanding the foregoing, any per-  
6 son making a deposit for the purpose of placing a bet or  
7 wager with a person who is required but has failed to ob-  
8 tain a license pursuant to subchapter V of chapter 53 of  
9 title 31, United States Code, shall be liable for and pay  
10 the fee under this subchapter on all such deposits, but  
11 such liability shall not excuse any failure to pay the fee  
12 on the part of the person who is required but has failed  
13 to obtain such license.

14       “(d) UNAUTHORIZED BETS OR WAGERS.—There is  
15 hereby imposed a fee in an amount equal to 50 percent  
16 of all funds deposited into an account that can be used  
17 for placing a bet or wager within the meaning of Section  
18 5362(1) of title 31, United States Code, with any person  
19 that is not authorized pursuant to section 5382 of that  
20 title. Such tax is due by the end of each calendar month  
21 with respect to deposits during the preceding month.

22       “(e) DISPOSITION.—Amounts paid as Internet gam-  
23 bling license fees or on unauthorized bets or wagers under  
24 this section shall be deposited in the general fund of the  
25 Treasury and treated as revenue.

1       “(f) ADMINISTRATIVE PROVISIONS.—Except to the  
 2 extent the Secretary shall by regulations prescribe, the  
 3 fees imposed by this section shall be subject to the admin-  
 4 istrative provisions of this title applicable to excise taxes  
 5 imposed by chapter 35.

6       **“SEC. 4492. RECORD REQUIREMENTS.**

7       “Each person liable for fees under this subchapter,  
 8 except for a person making a deposit who is liable for fees  
 9 pursuant to section 4491(e), shall keep a daily record  
 10 showing deposits as defined in this subchapter, in addition  
 11 to all other records required pursuant to section  
 12 6001(a).”.

13       (b) INFORMATION RETURNS.—Subpart A of part III  
 14 of subchapter A of chapter 61 (relating to information  
 15 concerning persons subject to special provisions) is amend-  
 16 ed by adding at the end the following new section:

17       **“SEC. 6050X. RETURNS RELATING TO INTERNET GAMBLING.**

18       “(a) REQUIREMENT.—Every person who is a licensee  
 19 (within the meaning of section 5382(3) of title 31, United  
 20 States Code) or who otherwise is engaged in the business  
 21 of accepting any bet or wager within the meaning of sec-  
 22 tion 5362(1) of title 31, United States Code, during a tax-  
 23 able year shall furnish, at such time and in such manner  
 24 as the Secretary shall by regulations prescribe, the infor-  
 25 mation described in subsection (b), and such person shall

1 maintain (in the location, in the manner, and to the extent  
2 prescribed in regulations) such records as may be appro-  
3 priate to the information described in subsection (b).

4 “(b) REQUIRED INFORMATION.—For purposes of  
5 subsection (a), the information described is set forth  
6 below, which information may be modified as appropriate  
7 by the Secretary through regulation—

8 “(1) the name, address, and TIN of the licensee  
9 or other person engaged in the business of accepting  
10 any bet or wager,

11 “(2) the name, address, and TIN of each per-  
12 son placing a bet or wager with the licensee or other  
13 person engaged in the business of accepting any bet  
14 or wager during the calendar year,

15 “(3) the gross winnings, gross wagers, and  
16 gross losses for the calendar year of each person  
17 placing a bet or wager with the licensee or other per-  
18 son engaged in the business of accepting any bet or  
19 wager during the year,

20 “(4) the net Internet gambling winnings for  
21 each such person for the calendar year,

22 “(5) the amount of tax withheld with respect to  
23 each such person for the calendar year,

1           “(6) beginning and end-of-year account bal-  
2           ances for each such person for the calendar year,  
3           and

4           “(7) amounts deposited and withdrawn by each  
5           such person during the calendar year.

6           “(c) STATEMENT TO BE FURNISHED TO PERSONS  
7 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—  
8 Every person required to make a return under subsection  
9 (a) shall furnish to each person whose name is required  
10 to be set forth in such return by reason of placing a bet  
11 or wager a written statement showing—

12           “(1) the name, address, and phone number of  
13           the information contact of the person required to  
14           make such return, and

15           “(2) the information required to be shown on  
16           such return with respect to each person whose name  
17           is required to be set forth in such return.

18 The written statement required under the preceding sen-  
19 tence shall be furnished to the person on or before Janu-  
20 ary 31 of the year following the calendar year for which  
21 the return under subsection (a) was required to be made.

22           “(d) DEFINITIONS.—

23           “(1) NET INTERNET GAMBLING WINNINGS.—

24           The term ‘net Internet gambling winnings’ means  
25           gross winnings from wagers placed over the Internet

1 with a person required to be licensed under section  
 2 5382 of chapter 53 of title 31, United States Code,  
 3 less the amounts wagered.

4 “(2) INTERNET; WAGER.—The terms ‘Internet’  
 5 and ‘wager’ shall have the respective meanings given  
 6 such terms by section 5362 of chapter 53 of title 31,  
 7 United States Code.”.

8 (c) CLERICAL AMENDMENTS.—

9 (1) The table of subchapters for chapter 36 is  
 10 amended by adding at the end the following new  
 11 item:

“SUBCHAPTER E. INTERNET GAMBLING.”.

12 (2) The table of sections for subpart B of part  
 13 III of subchapter A of chapter 61 is amended by in-  
 14 serting after the item relating to section 6050W the  
 15 following new item:

“Sec. 6050X. Returns relating to Internet gambling.”.

16 (d) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to bets or wagers placed after the  
 18 date of the enactment of this Act.

19 **SEC. 3. WITHHOLDING FROM CERTAIN GAMBLING**  
 20 **WINNINGS.**

21 (a) NET INTERNET GAMBLING WINNINGS.—Para-  
 22 graph (3) of section 3406(b) (relating to other reportable  
 23 payments for purposes of backup withholding) is amend-  
 24 ed—

- 1 (1) by striking “or” in subparagraph (E);
- 2 (2) by striking “.” and inserting “, or” at the
- 3 end of subparagraph (F); and
- 4 (3) by adding at the end thereof the following
- 5 new subparagraph:
- 6 “(G) section 6050X(b)(4) (relating to net
- 7 Internet gambling winnings).”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 this section shall apply to bets or wagers placed after the  
10 date of the enactment of this Act.

11 **SEC. 4. WITHHOLDING OF TAX ON NONRESIDENT ALIENS.**

12 (a) TAX ON NONRESIDENT ALIEN INDIVIDUALS.—  
13 Paragraph (1) of section 871(a) (relating to income not  
14 connected with United States business) is amended—

- 15 (1) by striking “and” at the end of subpara-
- 16 graph (C),
- 17 (2) by inserting “and” at the end of subpara-
- 18 graph (D), and
- 19 (3) by inserting after subparagraph (D) the fol-
- 20 lowing new subparagraph:

21 “(E) the gross amount of winnings from  
22 each wager placed over the Internet with a per-

23 son required to be licensed under section 5382  
24 of chapter 53 of title 31, United States Code

1 (as such terms are defined in section  
2 6050X(d)(2)),”.

3 (b) EXEMPTION FOR CERTAIN GAMBLING  
4 WINNINGS.—Section 871(j) (relating to exemption for cer-  
5 tain gambling winnings) is amended by inserting before  
6 the period at the end the following: “or to any bets or  
7 wagers placed over the Internet (as such terms are defined  
8 in section 6050X(d)(2))”.

9 (c) WITHHOLDING OF TAX ON NONRESIDENT ALIEN  
10 INDIVIDUALS.—The first sentence of subsection (b) of sec-  
11 tion 1441 (relating to withholding of tax on nonresident  
12 aliens) is amended by inserting after “gains subject to tax  
13 under section 871(a)(1)(D),” the following: “the gross  
14 amount of winnings from wagers placed over the Internet  
15 described in section 871(a)(1)(E),”.

16 (d) SOURCE OF INTERNET GAMBLING WINNINGS.—  
17 Subsection (a) of section 861 is amending by inserting at  
18 the end thereof the following new paragraph:

19 “(9) INTERNET GAMBLING WINNINGS.—Any  
20 Internet gambling winnings received from a licensee  
21 within the meaning of section 5382(3) of title 31,  
22 United States Code.”.

23 (e) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to bets or wagers placed after the  
25 date of the enactment of this Act.

1 **SEC. 5. TERRITORIAL EXTENT.**

2 Paragraph (2) of section 4404 is amended to read  
3 as follows:

4 “(2) placed within the United States or any  
5 Commonwealth, territory, or possession thereof by a  
6 United States citizen or resident.”.

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